

Notice of Allowability

Application No.

10/688,865

Applicant(s)

PROCHAZKA, ARTHUR

Examiner

Ronald D Hartman Jr.

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the After Final Amendment filed on 4/1/2005.
2. ☒ The allowed claim(s) is/are 25-35, 37-57 and 59-68 (renumbered as 1-42 by the examiner of record).
3. ☒ The drawings filed on 17 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. Claims 25-35, 37-57 and 59-68 are presented for further examination.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Morgan on April 13, 2005.

The application has been amended as follows:

In the claims:

Claims 35 and 45, line 1, delete "step (d)" and replace with -- step (e) --.

Claim 41, delete "38" and replace with -- 40 --.

Claim 40, delete "38" and replace with -- 39 --.

Claim 63, delete "60" and replace with -- 62 --.

Claim 62, delete "60" and replace with -- 61 --.

Allowable Subject Matter

3. Claims 25-35, 37-57 and 59-68 are allowed.

As per independent claims 25 and 46, the prior art of record fails to teach a method for assisting a person in controlling one or more devices, wherein a vibration sensor is attached either to a person's head or over a bony mastoid process, wherein when the person clicks his or her upper and lower teeth together, a control signal is formed that allows for stimulating movement of the person's body part, in combination with the other claimed features.

The closest available art appears to be US Patent Application Publication No. 2003/0120183 A1, filed by Simmons, in which assistive clothing is disclosed that utilizes mouth controls to operate a person's body parts. Simmons, however, does not teach the use of clicking upper and lower teeth together since Simmons discloses utilizing the person's tongue to cause actuation of the sensors located along the teeth. Simmons does not teach a microphone used to pick up signals emanating from the clicking of the upper and lower teeth.

The next closest prior art was issued to Yoshizawa et al., U.S. Patent No. 4,392,244, in which a device is disclosed that utilizes a person's clicking of their upper and lower teeth in order to effectuate a switch between an "off" and "on" state of a communication device. Although Yoshizawa et al. teaches clicking upper and lower teeth for creating a control signal, Yoshizawa et al is not directed towards moving a person's body part.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D Hartman Jr. whose telephone number is (571) 272 - 3684. The examiner can normally be reached on Mon. - Fri., 11:30 am - 9:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached at (571) 272 - 3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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